

EXHIBIT 468

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

- - -

IN RE: NATIONAL	:	
PRESCRIPTION	:	MDL No. 2804
OPIATE LITIGATION	:	
	:	Case No.
	:	1:17-MD-2804
THIS DOCUMENT RELATES	:	
TO ALL CASES	:	Hon. Dan A. Polster

- - -

Monday, January 7, 2019

HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
CONFIDENTIALITY REVIEW

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Videotaped deposition of TOM NAMETH, held at
the offices of Cavitch, Familo & Durkin,
1300 East Ninth Street, Cleveland, Ohio, commencing at
9:03 a.m., on the above date, before Carol A. Kirk,
Registered Merit Reporter and Notary Public.

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1 A. Yes.

2 Q. And that's how you operated at
3 DDM?

4 A. Yes.

5 Q. Okay. Was there ever an instance
6 at DDM where you found a possible suspicious
7 order and you reported it immediately to the
8 DEA?

9 A. No.

10 Q. Was there ever a time when you
11 reported any order as suspicious to the DEA at
12 any time?

13 A. We did not.

14 Q. Okay. That would include you and
15 anyone else; is that fair?

16 A. To my knowledge, yes.

17 Q. Okay. Is that knowledge partially
18 reflective of what you read in those
19 depositions?

20 A. No. I'm just speaking -- I don't
21 recall -- I mean, you know, not that I'm aware
22 of that we ever reported a suspicious order to
23 the DEA.

24 Q. Okay. Okay. So let's go back to

1 Interrogatory Number 4, and I think as you aptly
2 pointed out, it includes the words "possible
3 suspicious order," correct?

4 A. Yes.

5 Q. And so with the addition of that
6 word, would you agree that any order that
7 appeared on your 12-month report should probably
8 be listed here in the response?

9 MR. JOHNSON: Objection.

10 A. When you list this as possible
11 suspicious orders, then I guess anything on the
12 report could be provided.

13 Q. Except for the fact maybe that
14 that report didn't actually show specific
15 orders, right, it just showed how much you had
16 ordered in the month?

17 A. Correct.

18 Q. Okay. And so let's look at the
19 information that was requested for each of
20 those. It says, "The date of the suspicious
21 order and the customer's identity and address."

22 Do you see that under a?

23 A. Yes.

24 Q. That -- your report wouldn't

1 actually show the date of the suspicious order,
2 would it?

3 A. No.

4 Q. Okay. It would just show how much
5 was ordered the month -- in that month, right?

6 A. Yes.

7 Q. Okay. And then b, "A description
8 of said order." Would that information be
9 contained in that report?

10 A. Yes.

11 Q. So like how much was ordered --
12 the --

13 A. The description being the type of
14 drug that it was.

15 Q. Would that include NDC number?

16 A. Yes.

17 Q. The name of the drug?

18 A. Yes.

19 Q. Where the drug came from, like the
20 manufacturer?

21 A. That would -- that's by the NDC
22 number you would know what manufacturer.

23 Q. Okay. And it would have like
24 quantity and strength?

1 A. Yes.

2 Q. And under c, obviously none of
3 them were ever reported to the DEA, correct?

4 A. Correct.

5 Q. Okay. And the due diligence that
6 would have been performed on anything that
7 showed up on that 12-month report would have
8 been the form you sent to the stores; is that
9 correct?

10 A. Yes.

11 Q. And would there be any other
12 documentation to reflect any due diligence that
13 was done?

14 A. Not to my knowledge, no.

15 Q. Okay. Did you keep files in your
16 office or that were accessible to you that
17 contained those documents or some sort of a
18 running file that would show your due diligence
19 over time as it related to a particular store?

20 A. Yes.

21 Q. And would that just be by store?

22 A. It would be by month.

23 Q. So it would be by month, not by
24 store?

1 A. Correct.

2 Q. Okay. And would that basically
3 consist of you taking the report that was
4 printed out and just putting it in a file?

5 A. Well, the reports -- those whole
6 reports were kept. Usually I indicated on the
7 report which ones that I notified the stores
8 about, on that report. But then also when the
9 report was generated and went out to the stores,
10 there was also a follow up that had to make sure
11 that those answers were received.

12 Q. Okay. And so you would write on
13 the physical report that was printed each month?

14 A. Yes.

15 Q. And was that report only in hard
16 copy?

17 A. Yes.

18 Q. And -- but you retained that
19 report?

20 A. Yes.

21 Q. Do you know whether DDM still has
22 those reports?

23 A. I can't answer that.

24 Q. Okay. Would you have written the

1 reasons why you determined a possible suspicious
2 order was not suspicious on that report?

3 A. No.

4 Q. Would that be reflected in the
5 form that you sent to the store?

6 A. Correct.

7 Q. Okay. Did you ever halt or
8 suspend any order as suspicious?

9 A. Did not.

10 Q. Okay. And, in fact, I believe the
11 report you've been talking about, the 12-month
12 report, was a retrospective report, correct?

13 A. Yes.

14 Q. So that report was not -- didn't
15 work in a way that would allow you to stop an
16 order before it was filled, right?

17 A. No. But there was another report
18 that was generated that Jill looked at that
19 could have fulfilled that.

20 Q. Okay. And so the only prospective
21 system that was in place at DDM to identify
22 suspicious orders, that you know of, was the
23 report that Jill looked at, correct?

24 A. Yes.

1 Q. Okay. And so it wasn't your job
2 or responsibility to identify orders that were
3 suspicious and should be halted before they went
4 out, correct?

5 A. Say again.

6 Q. It wasn't your job or
7 responsibility at DDM to identify suspicious
8 orders and then halt them before they went out,
9 correct?

10 A. Well, you're using the term
11 "suspicious order." We didn't -- but if there
12 was a suspicious order, then they would have
13 gone out. We would have followed up at the back
14 side, on the back end.

15 Q. They would have gone out but you
16 would have followed up later?

17 A. Yes.

18 Q. Okay. Do you know whether that
19 complies with the Controlled Substances Act
20 requirement that you have effective controls in
21 place to prevent against diversion?

22 A. Well, when you look at our -- you
23 know, because we're still a closed system, there
24 was some conversations whether or not, because

1 we didn't -- it didn't leave our -- in other
2 words, it didn't leave our small group of
3 individual stores, because they're still within
4 our family of stores, that we let the orders go,
5 but we could follow up and then -- we didn't cut
6 orders, so to speak, before they went out the
7 door.

8 Q. Okay. So it would be fair to say
9 that DDM -- the extent of DDM's system to put in
10 place effective controls to prevent diversion
11 would have been reliance on the pharmacist; is
12 that fair?

13 A. Yes.

14 Q. Okay. All right. If you look at
15 5. It says, "Please identify any persons" --
16 I'm going to paraphrase -- "who reviewed or
17 analyzed data regarding the distribution or
18 dispensing of opioids or your opioid products."

19 Do you see that?

20 A. Mm-hmm.

21 Q. Okay. And if you flip the next
22 page, it's got yourself, Jill Strang, Jason
23 Briscoe, and Pete Ratycz.

24 Do you see that?

1 A. Yes, I do.

2 Q. Did you ever review any reports
3 that reflected ordering history of opioids over
4 time?

5 A. Other than the report that I
6 reviewed?

7 Q. Correct.

8 A. No.

9 Q. Okay. And that report only showed
10 what the average was for the prior 12 months,
11 correct?

12 A. Yes.

13 Q. Okay. So you didn't look at any
14 reports that showed, over the last three years
15 Store 33's orders have gone from X to Y,
16 correct?

17 A. That's correct.

18 Q. Okay. Do you know if anybody else
19 did?

20 A. Not that I'm aware of.

21 Q. Okay. And so would the only
22 information that you analyzed regarding the
23 distribution or dispensing of opioids be that
24 12-month rolling report?

1 A. Yes.

2 Q. Okay. Do you know whether anybody
3 else at DDM reviewed any report other than that
4 one which would have allowed them to analyze the
5 movement of opioids?

6 A. Unless it was Pete in his
7 responsibilities. I wasn't quite sure from a
8 30-foot -- 30,000-foot level what he was doing.
9 He could have been. I wasn't aware of it.

10 Q. Okay. But he was running the
11 show, right?

12 A. Yes.

13 Q. And your piece of this was to
14 review and monitor that 12-month rolling report?

15 A. Right. Right.

16 Q. Okay. And that -- it was limited
17 to that, correct?

18 A. Correct.

19 Q. Okay. Let's go to Interrogatory
20 Number 12, which is on page 6. So this one
21 asks, "Please identify" -- or "For each
22 customer" -- and that would be a DDM store in
23 this context. "Please identify their thresholds
24 and/or controlled substance limits at the time

1 the order -- of the order and identify personnel
2 who were responsible for establishing and/or
3 approving any thresholds or controlled substance
4 limit, as well as any overrides."

5 Do you see that?

6 A. Mm-hmm.

7 Q. And the answer there is "None,"
8 right?

9 A. That's the answer, yes.

10 Q. Would that be consistent with your
11 understanding of how DDM operated?

12 A. I'm reading through it again.

13 Q. Sure.

14 MR. JOHNSON: It's also up on the
15 screen if that's easier for you.

16 THE WITNESS: Yeah, that's
17 probably easier.

18 BY MR. MULLIGAN

19 Q. Maybe I can para -- I --

20 MR. JOHNSON: It takes getting
21 used to.

22 MR. MULLIGAN: Sure. Yeah.

23 BY MR. MULLIGAN:

24 Q. And I can paraphrase even more.

1 Really what I'm asking is, did -- were there --
2 were -- did individual DDM stores ever have any
3 thresholds for how much they could order?

4 A. No.

5 Q. Okay. And so there would never
6 have been a time where Store 33 ordered X amount
7 and automatically that order would be halted if
8 it exceeded a certain limit, correct?

9 A. Correct.

10 Q. Okay. Did DDM ever discuss the
11 merits of imposing thresholds upon its stores?

12 A. No, but it could have been at a
13 different level.

14 Q. Okay. So nobody ever approached
15 you and said, "Hey, maybe we should put some
16 thresholds on our stores in light of the opioid
17 crisis that seems to be developing"?

18 A. Well, all our C-IIs did not come
19 from our warehouse. The only thing that was
20 coming from our warehouse was the hydrocodones.

21 Q. Okay.

22 A. So there were -- I assume there
23 were limits from the wholesalers.

24 Q. Okay. At some point, DDM stores